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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,377	01/30/2004	Dan Llewellyn	60,137-231; 265-3038-U	6524
26096	7590	12/29/2005	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 12/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/768,377	Applicant(s) LLEWELLYN, DAN	
	Examiner Paul Durand	Art Unit 3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,10-13,16,17,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) 10-13 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,17,21,22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>04/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claims 10-13 and 16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/28/2005.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "50 and 52" has been used to designate both a control system in figure 6 and a brake system in figure 7.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1,4,5 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to these claims, the recitation "said control" lacks antecedent basis.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,3-5,17,21 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Yiu (US 6,854,530).

In regard to claim 1, Yiu discloses the invention as claimed including first and second drive elements comprised of common solenoid 20, which drives a plunger 21 in a first direction away from an attachment element, storing energy in spring 14, driving the plunger in a second direction opposite the first direction, releasing the stored energy in combination with the driving force of the solenoid and a sensor and control unit comprised of a microprocessor unit 30, with photodiode 36 and thyristor 37, which controls the operation of the tool based on the position of the plunger (see abstract, Figs.1,5,6 and C2,L6 – C6,L59).

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In regard to claim 3, Yiu discloses the invention as claimed including the solenoid 20 centering the plunger as it is moved between the first and second position (see Fig.1).

In regard to claims 4 and 5, Yiu discloses the invention as claimed including storing energy in a force storage mechanism comprised of spring 14, and then initiating a second drive force (see Figs.5,6 and C2,L6 – C6,L59).

In regard to claim 17, Yiu discloses the invention as claimed including a plunger 21, blade 25, guided in housing 10, coil in the form of solenoid 20, which drives the plunger in a first and second direction, spring 14 and driving the plunger in a second direction opposite the first direction, releasing the stored energy in combination with the driving force of the solenoid and a sensor and control unit comprised of a microprocessor unit 30, with photodiode 36 and thyristor 37, which controls the operation of the tool based on the position of the plunger (see abstract, Figs.1,5,6 and C2,L6 – C6,L59).

In regard to claims 21 and 22, Yiu discloses the invention as claimed including capacitors 34, which power the micro processing unit 30, the micro processing unit providing power to the solenoid as the plunger moves in a second direction from the retracted position.

Response to Arguments

7. Applicant remarks that certain claim were not examined in response to the election filed 2/28/2005 is valid. It appears that there was a misunderstanding in the

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election response, and claims 6,8 and 9 should have been examined in the last Office Action. However, the applicant has cancelled these claims in the current amendment.

Applicant further argues that Yiu does not specifically disclose the use of sensor to sense the position of the plunger and to control the operation of the tool. The examiner does not agree. As the examiner understands the invention, the use of an actuating unit, comprised of photodiode and a thyristor sense the current change as the plunger is moved through the solenoid to determine the position of the plunger, which then sends a signal to the MPU to provide power to the solenoid during operation.

Applicant further argues that the reference of Yiu does not teach the use of a capacitor to power the solenoid. The examiner does not agree. On column 4, lines 6-11, Yiu recites that the capacitor 34 is used to "provide stabilized electric power to energize the MPU 31 or the other electric parts or elements". The examiner asserts that Yiu anticipated the use of a capacitor to drive the solenoid.

Therefore, for the reasons indicated above, the rejection is deemed proper.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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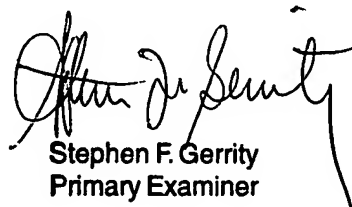
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul Durand
December 20, 2005



Stephen F. Gerrity
Primary Examiner